



**Talbot County Planning Commission
Final Decision Summary**

Wednesday, March 3, 2021 at 9:00 a.m.
Virtual Meeting

Archived audio and video stream of the meeting is available at:

<http://www.talbotcountymd.gov/index.php?page=minutes-3>

Attendance:

Commission Members:

Phillip “Chip” Councill, Chairman
William Boicourt, Vice Chairman
Michael Strannahan
Lisa Ghezzi
Paul Spies

Staff:

Miguel Salinas, Planning Officer
Brennan Tarleton, Assistant Planning Officer
Anthony Kupersmith, Acting County Attorney
Elisa Deflaux, Planner II
Maria Brophy, Planner II
Mike Mertaugh, Assistant County Engineer

1. Call to Order—Commissioner Councill called the meeting to order at 9:00 a.m.

2. Decision Summary Review— January 6, 2021 – The Commission noted the following corrections to the draft Decision Summary:

- a. Line 22: Omit the word “Assistant”; Mr. Salinas become the Planning Officer effective January 1, 2021.
- b. Line 124: Correction to “VH to WRC”
- c. Line 134: For clarification, Commissioner Boicourt asked about the use of “change” or “mistake” and where we ended up; who makes that determination? Mr. Salinas indicated the consensus at the January meeting was that either “change” or “mistake” was acceptable. Discussion ensued regarding the use of terminology “change” vs. “mistake” and what precedent the Planning Commission might be setting by using one or the other. Mr. Salinas noted that in looking back we probably should have had a “findings of fact” in the Motion; after further discussion Commissioner Councill suggested that Staff get some legal advice from and The County Attorney’s office and that the Planning Commission revisit the topic under Old Business at the next Planning Commission meeting.
- d. Line 260: Change September to December.

Commissioner Ghezzi moved to approve the Decision Summary, with amendments and a condition that the “change” or “mistake” discussion is revisited during the next meeting under old business. Commissioner Boicourt seconded the motion.

Vote 5-0
FOR: 5 – Councill, Boicourt, Ghezzi, Spies, Strannahan
AGAINST: 0
ABSTAIN: 0
ABSENT: 0

3. Old Business - None

4. New Business

- a. **Applicant:** JBR Arrington Road, LLC
File No.: SP 629
Agent: Brett Ewing, Lane Engineering, LLC
Request: Major Site Plan Review to establish two uses: Agricultural Processing for Firewood Sales & Greenhouse and Plant Nursery (Wholesale) - Request for Planning Commission Approval; Waivers of the Site Plan Requirements for §190-35.5, Sidewalks and Streetlights and § 190-41.6 Bicycle Parking – Request for Approval
Location: 9007 Chapel Road, Easton, Maryland, 21601
Zoning: Map 25, Grid 18, Parcel 107, Zone: TC

The applicant is seeking Planning Commission approval of a Major Site Plan to operate a *Greenhouse and Plant Nursery (Wholesale)* and an *Agricultural Processing* use for the handling of cut trees, including two zoning waivers for sidewalks and streetlights, and bicycle parking. Economy Tree Service operates from a site in Queen Anne’s County. The applicant is proposing to transport trees cut in Talbot County to this site to be processed into firewood and stored onsite to sell to customers. There will be no public access to the site. Therefore, all sales of plant nursery stock and firewood are proposed to be delivered by the company. Staff recommends the following conditions:

1. The applicant shall comply with all address all additional TAC comments from the February 10, 2021 meeting.
2. The applicant will need to revise the label for the equipment tarps and the barn to be accessory to the plant nursery use.
3. The applicant will need to delineate areas on the site plan for the firewood stockpile and storage.
4. The applicant shall take all of the required steps and acquire all necessary approvals, including any additional waivers necessary, required for a Site Plan and Landscaping Plan as spelled out in the Talbot County Code.

Staff Presentation:
Elisa Deflaux, Planner II

Applicant Presentation:

99 Zach Smith, Armistead, Lee, Rust & Wright, P.A.; Brett Ewing, Lane Engineering, LLC;
100 Jim Roy, Economy Tree Service.

101
102 Zachary Smith, attorney representing Owner Jim Roy, led the introduction for the
103 applicant.

104
105 Commissioner Councill asked staff for background on the matter. Miguel Salinas stated
106 that commercial Site Plans are required to first attend a Pre-Application meeting where
107 the applicant provides information on their project and receives comments from staff.
108 During that meeting the applicant was informed by staff that the firewood processing and
109 sales would fall under the Agricultural Processing land use classification. Staff also
110 informed the applicant the process they would need to follow.

111
112 **Public Comment:**

113 None
114

115 **Discussion:**

116 Brett Ewing of Lane Engineering commented on the Site Plan. Mr. Ewing stated that
117 other than the requested waivers of sidewalks, streetlights and bicycle parking, the plan
118 meets all areas of development standards and that all of the landscaping and screening
119 requirements have been met, and will be planting four acres of forest. Mr. Ewing
120 explained they plan on keeping the agricultural processing area in the rear but rotating it
121 to address County staff concerns, as well as be in compliance with County ordinances
122 and reduce other impacts. Commissioner Councill requested that easements be
123 considered in conjunction with the waivers.

124
125 Questions were raised regarding the use of the site.

126
127 Commissioner Councill asked, should the waiver be granted, if there will be an issue
128 placing an easement for sidewalks and street lights on the plat in case they are needed in
129 the future.

130
131 Commissioner Boicourt inquired about the gravel parking area, where the firewood
132 storage pile was located, and whether the entrance on Chapel Rd is adequate for a truck
133 entrance, considering a large residential area is across the way. Discussion ensued.

134
135 Commissioner Strannahan reiterated Boicourt's concerns related to the where the
136 firewood storage pile was located and supported the use of the property.

137
138 Commissioner Councill followed by asking the applicant to provide some information on
139 the vehicular movement. The applicant responded.

140
141 Commissioner Ghezzi addressed the applicant noting that he had just responded to
142 Chairman Councill that there would be possibly 1-2 trucks a day, and yet the application
143 indicates 9 times a day for log trucks says and 8 times a day for delivery of firewood. She
144 asked the applicant for clarification. The applicant and his legal council responded.

Commissioner Ghezzi asked Mr. Salinas to provide more information about the Pre-Application.

Commissioner Spies clarified that the Planning Commissioners are not certifying the land use; they are approving the Major Site Plan. Mr. Salinas agreed and stated that the land use was determined prior to application submittal; the applicant submitted their site plan and Special Exception. He continued that at the Pre-Application meeting the applicant was told that Plant Nursery Retail and Agricultural Processing for the firewood were Special Exception Uses under the land use application in the TC zoning district; consequently they then applied for Wholesale Plant Nursery, which is permitted, and Agricultural Processing for the firewood which is Special Exception. This information was shared verbally at the March 2020 Pre-Application meeting and later in April in writing.

Commissioner Ghezzi referred to Talbot County Code §190-26.5 where Agricultural Processing has four supplemental conditions, where some conditions do not seem to conform. Active farming does not seem to apply in this matter. The applicant's legal council responded. Discussion ensued.

Commissioner Councill stated that he looked at the four standard conditions and did not agree with the argument that this does not fit. Commissioner Ghezzi responded that she does not think the Agricultural Processing land use applied because the property was not actively farmed.

Commissioner Ghezzi expressed her concern whether adequate notification was given and that nearby developments such as Mulberry Station and Chapel East might be impacted by noise emanating from the location. Mr. Salinas responded that he diligently took the time yesterday to confirm property owners were properly notified, that the applicant complied with the notification requirements of the Code. Discussion ensued.

County Attorney, Mr. Kupersmith, referred to the Special Exception of the Code and the Board of Appeals' express mandate to consider nuisances emanating from the applicant's property and what impact these may have on neighboring properties.

Commissioner Councill stated that there seemed to be no concern over the Wholesale Nursery use but there was concern over the Agricultural Processing use. He asked the applicant to talk about how many employees will be entering and exiting the site, truck traffic to site, firewood processor noise generated, decibels put out, frequency motor will run, etc. The applicant responded and discussion ensued.

Commissioner Ghezzi moved that the Planning Commission approve the Major Site Plan for the Wholesale Plant Nursery with the waivers and staff conditions, except for the Agricultural Processing until adequate notification has been given to the community. The motion died for a lack of a second.

Commissioner Boicourt stated that he appreciated the specific information provided about the noise and he is comfortable with Commissioner Ghezzi's suggestion of a community meeting. Further discussion followed.

Commissioner Councell stated he believed the requirements from the applicant had been met. Commissioner Spies expressed his frustration on this matter and noted that there is a process for approval that is being followed. He would like to make sure we get the entrance and the storage area right. Discussion ensued.

Commissioner Spies recommended that the Planning Commission approve the Major Site Plan with waivers for JBR Arrington Rd, LLC subject to staff conditions and a required easement for future sidewalks and streetlights on the Plan. Commissioner Strannahan seconded the motion.

Vote	4-1
FOR:	4 – Councell, Boicourt, Spies, Strannahan
AGAINST:	1 – Ghezzi
ABSTAIN:	0
ABSENT:	0

b. Applicant: JBR Arrington Road, LLC
File No.: Appeal # 1718
Agent: Zach Smith, Attorney for the applicant
Request: Special Exception to establish two uses: Agricultural Processing for Firewood Processing and Sales & Greenhouse and Plant Nursery (Wholesale) - Recommendation from the Planning Commission to the Board of Appeals
Location: 9007 Chapel Road, Easton, Maryland 21601
Zoning: Map 25, Grid 18, Parcel 107, Zone: TC

The applicant is seeking recommendation by the Planning Commission to the Board of Appeals for a Special Exception to operate a *Greenhouse and Plant Nursery (Wholesale)* and an *Agricultural Processing* use for the handling of trees cut down by Economy Tree Service. Economy Tree Service currently operates from a site in Queen Anne's County. The plant nursery will provide landscape stock for Economy Tree Service's customers. The applicant is also proposing to transport trees cut in Talbot County to the site to be processed into firewood and stored onsite to sell to customers. There will be no public access to the site. Therefore, all sales of plant nursery stock and firewood are proposed to be delivered by the company. Staff recommends the following conditions:

1. The applicant will need to provide an up to date site plan that shows the equipment tarps and the barn labeled as accessory to the plant nursery use.
2. The applicant will need to delineate areas on the site plan for the firewood stockpile and storage.

3. The applicant shall take all of the required steps and acquire all necessary approvals, including any additional waivers necessary, required for a Site Plan and Landscaping Plan as spelled out in the Talbot County Code.

Staff Presentation:

Elisa Deflaux, Planner II

Applicant Presentation:

Zach Smith, Armistead, Lee, Rust & Wright, P.A.; Brett Ewing, Lane Engineering, LLC; Jim Roy, Economy Tree Service.

Zachary Smith, attorney representing Owner Jim Roy, spoke on behalf of the applicant.

Public Comment:

None

Discussion:

Commissioner Boicourt agreed that the use is an appropriate use.

Commissioner Strannahan stated he had no questions.

Commissioner Ghezzi asked about the Temporary Use permit as it appeared it expired. The applicant's attorney responded. Commissioner Ghezzi asked if the applicant had cleaned up the site. The applicant responded.

Commissioner Spies stated that he is excited to see a property being cleaned up and improved and expressed appreciation to the applicant for cleaning up the site.

Commissioner Councill stated he was in support of the Special Exception. He suggested the applicant prepare and make part of the record the noise levels that will be generated from the Agricultural Processing.

Commissioner Spies moved that the Planning Commission recommend to the Board of Appeals approval of the Special Exception for Appeal #21-1718 to operate a Greenhouse and Plant Nursery (Wholesale) use and an Agricultural Processing use for JBR Arrington Road, LLC subject to staff conditions. Commissioner Boicourt seconded the motion.

Vote	4-1
FOR:	4 – Councill, Boicourt, Spies, Strannahan
AGAINST:	1 - Ghezzi
ABSTAIN:	0
ABSENT:	0

c. **Applicant:** William McGrath and Susan Shen
 File No.: MV 42
 Agent: Lars Erickson, East Bay Construction Services, LLC
 Request: Minor Variance for Additions to the Residence in the Buffer -
 Recommendation to the Planning Officer
 Location: 23273 Swan Cove Road, Bozeman, Maryland 21612
 Zoning: Map 31, Grid 10, Parcel 294, Lot 1, Zone: VH/CAO

The applicant is seeking Planning Commission recommendation of approval for a Minor Variance of the 100' Shoreline Development Buffer (Buffer) to construct 151 square feet of living space, 92 square feet of a screened porch area and 36 square feet of related landings to be located 84'-8" from Mean High Water (MHW) at its closest point and encroaching no closer to MHW than the existing residence. Should the Planning Commission recommend approval of the Minor Variance, staff recommends the following conditions:

1. The applicant shall comply with and address all outstanding issues and comments, including the completion of a Certificate of Nonconformity.
2. The applicant shall apply for and receive approval of a Buffer Management Plan that complies with all requirements of the Critical Area Law.
3. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
4. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's "Notice to Proceed".

Staff Presentation:
Maria Brophy, Planner II

Applicant Presentation:
Lars Erickson, East Bay Construction Services, LLC

Lars Erickson, Engineer, spoke on behalf of the applicant.

Public Comment:
None

Discussion:
Commissioners Boicourt, Strannahan, Ghezzi and Spies all commented that the application meets code requirements and are in favor.

Commissioner Councell expressed concern that the proposed and existing site plan included a future pathway to the pier that is not a part of this request. Mr. Erickson noted the County does now allow for up to a six-foot wide pathway to connect by a reasonably straight method from the pier to the principal structure and would not count toward lot

coverage. He wanted to show, as a full disclosure, that the applicant will be doing that, will not need a variance and will need a Buffer Management Plan.

Commissioner Boicourt recommended that the Planning Commission approve #MV42 Minor Variance for Additions to the Residence in the Buffer - Recommendation to the Planning Officer for William McGrath and Susan Shen subject to staff conditions. Commissioner Ghezzi seconded the motion.

<u>Vote</u>	<u>5-0</u>
FOR:	5 – Councell, Boicourt, Ghezzi, Spies, Strannahan
AGAINST:	0
ABSTAIN:	0
ABSENT:	0

d. Applicant: Robert Mannon
File No MV 43
Agent: Brett Ewing, Lane Engineering, LLC
Request: Minor Variance for an Addition to the Residence in the Buffer – Recommendation to the Planning Officer
Location: 4306 World Farm Road, Oxford, Maryland 21654
Zoning: Map 53, Grid 17, Parcel 26, Zone: RR/CAO

The applicant is seeking Planning Commission recommendation of approval for a Minor Variance of the 100' Shoreline Development Buffer (Buffer) to construct a 439 square foot screened porch addition with 13 square feet of steps to be located 69.3' from Mean High Water (MHW) at its closest point and encroaching no closer to MHW than the existing residence. Should the Planning Commission recommend approval of the Minor Variance, staff recommends the following conditions:

1. The applicant shall comply with and address all Critical Area comments and standards, including the completion of a Buffer Management Plan that complies with requirements of the Critical Area Law.
2. The applicant shall make an application to the Office of Permits and Inspections, and follow all rules, procedures, and construction timelines as outlined regarding new construction.
3. The applicant shall commence construction of the proposed improvements within eighteen (18) months from the date of the Planning Office's "Notice to Proceed".

Staff Presentation:
Maria Brophy, Planner II

Applicant Presentation:
Brett Ewing, Lane Engineering, LLC

Brett Ewing, Engineer, spoke on behalf of the applicant.

Public Comment:

None

Discussion:

Commissioners Boicourt, Strannahan, Ghezzi and Spies all commented in support of the applicant.

Commissioner Ghezzi moved that the Planning Commission approve # MV43 Minor Variance for an Addition to the Residence in the Buffer – Recommendation to the Planning Officer subject to staff conditions. Commissioner Strannahan seconded the motion.

Vote	5-0
FOR:	5 – Councill, Boicourt, Ghezzi, Spies, Strannahan
AGAINST:	0
ABSTAIN:	0
ABSENT:	0

5. Discussion Items

a/b. Request: Request from the Planning Director for a land use classification recommendation from the Planning Commission

Location: 12041 Cordova Road, Cordova, MD 21625

Zoning: Map 11, Grid 6, Parcel 27; AC

The Planning Director is seeking a land use classification recommendation from the Commission for a proposed use on the subject property for the collection, storage and transportation of a soil conditioner produced from chicken by-product proposed by Denali Water Solutions. The Planning Commissioners received a memo that included information from Mark Cropper of Ayres, Jenkins, Gordy and Almand, agent for Denali Water Solutions. The memo was in response to questions from the Planning Commission at the December 2020 Planning Commission meeting. LLC. Staff reviewed the answers from the applicant. Based on that information, staff's memorandum determined that the proposed use was not of a similar character or nature of a listed use in the Table of Land Uses and was therefore prohibited.

Staff Presentation:

Miguel Salinas, Planning Officer gave a brief overview and invited Mr. Cropper to be available for questions.

Applicant Presentation:

Mr. Cropper, Attorney for the applicant, and representatives from Denali, Charlie Golden and Lauren Miller, attended via teleconference; Mr. Cropper spoke on behalf of the applicant.

Discussion:

Commissioner Councell stated that he spent a lot of time researching this issue and agreed with the decision of the Planning Officer; he came to the same conclusion as the Planning Officer, that the use is not defined in our zoning ordinance, and therefore would be allowed.

Commissioner Boicourt stated that he also agreed with the decision of the Planning Officer and there were differences in the proposed use such as odor and volume that needed to be addressed. Commissioner Strannahan agreed with Commissioner Councell's summary and Commissioner Boicourt's comments.

Commissioner Ghezzi stated that the Code is complicated and she asked for comments from the Acting County Attorney. Mr. Kupersmith, County Attorney, responded that he had not researched the issue to provide comments. Commissioner Ghezzi stated she was challenged by the language and had no further questions.

Commissioners Spies stated that he was involved in the poultry industry for years and there is a need, in an environmentally friendly way, for this kind of product. He noted that for his family winery operations, they are held to certain restrictions and to be classified as an agricultural entity they held to certain standards to produce the product on site, on the farm. Mr. Spies felt there needed to be some minimum production on that site by the company. Commissioner Spies did not agree that the proposed use can be classified as an agricultural use and he saw this as a commercial entity operating on an industrial site and suggested searching for a commercial property where the proposed use is allowed or inquire about having this property rezoned.

Commissioner Spies moved that the Planning Commission support the memorandum from the Planning Officer dated March 3, 2021 regarding the Denali Land Use clarification. Commissioner Boicourt seconded the motion.

Vote	4-0-1
FOR:	4 – Councell, Boicourt, Spies, Strannahan
AGAINST:	0
ABSTAIN:	1 – Ghezzi
ABSENT:	0

- c. Request:** Discussion for amendments to the approved major site plan for Ferry Cove Oyster Hatchery to add an outdoor storage area for oyster shell to allow for spat on shell operations to be conducted onsite. Change the approved storm water management design for the hatchery to include the creation of a 3.39-acre wetland and a 2.04 acre marsh with a modification to the location of the hatchery discharge.

Location: Tax Map 30, Grid 17, Parcel 106
Zoning: RC & WRC

Ferry Cove received an approval of a Major Site Plan and they are in the process of constructing their main building. Sean Callahan of Lane Engineering and agent for Ferry Cove Project, LLC reached out and requested to be placed on the agenda to present information to the Planning Commission, for informational and educational purposes and to inform the Commission of other pending matters that were discussed at a Pre-Application meeting; spat on shell stockpile, roof addition to a barn and a coastal resiliency component.

Staff Presentation:

Miguel Salinas, Planning Officer gave a brief overview.

Applicant Presentation:

Mr. Callahan spoke on behalf of the Applicant.

Discussion:

Commissioners Councill, Boicourt and Ghezzi engaged in questions of clarification with Mr. Salinas and Mr. Callahan.

Commissioner Councill expressed the Commissioners support for a Temporary Use Certificate. Mr. Salinas asked the Commission about the suggestion of a condition related to times of delivery. Commissioner Councill responded that he trusts staff to decide on the necessity of a condition.

- 6. Staff Matters** – Announcement; Anthony Kupersmith, Acting County Attorney will be joining a law firm in Annapolis. His last day with Talbot County is next Friday, March 12. The Commission expressed that he will be missed.

- 7. Work Sessions** – Mr. Salinas stated that additional public outreach related to the draft Working Waterfront Overlay District has been on hold due to COVID and plans will be developed to begin looking at virtual options in order to start the process should public meeting restriction not open up in March.

- 8. Commission Matters** – Commissioner Councill stated that we will continue virtual meetings until further notice.

Commissioner Ghezzi noted inconsistency in the code, such as 190.50.3.C.2, and if inconsistencies could be clarified through text amendments. Mr. Salinas responded that staff is putting together something for the public to help people understand, in simple terms, what some of the Code language means.

- 9. Adjournment** – Commissioner Councill adjourned the meeting at 12:20 p.m.